

## Message Text

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ACTION COME-00

INFO OCT-01 NEA-10 ISO-00 EB-07 /018 W

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FM AMEMBASSY JIDDA

TO SECSTATE WASHDC 8178

UNCLAS JIDDA 3190

E.O. 11652: N/A

TAGS: BENC, BBSR, BGEN, SA

SUBJ: SAG ISSUES NEW TENDER REGULATIONS

REF: JIDDA A-24

1. THE SAG COUNCIL OF MINISTERS HAS ISSUED A NEW DECREE GOVERNING PURCHASING BY SAG AGENCIES AND BIDDING BY SUPPLIERS OR CONTRACTORS. THE ROYAL DECREE, NO. M/14 DATED MARCH 27, 1977 WHICH WAS PUBLISHED IN SAUDI NEWSPAPERS IN MID-APRIL WILL BECOME EFFECTIVE UPON PUBLICATION IN THE OFFICIAL GAZETTE.

2. THE DECREE IS AT LEAST PARTLY RESPONDING TO PUBLICITY EARLIER THIS YEAR OVER PERCEIVED IRREGULARITIES IN BID PRICES AND TENDERING PROCEDURES. THE NEW DECREE DOES NOT, HOWEVER, ADDRESS THE RELATIONSHIP BETWEEN FOREIGN SUPPLIERS AND LOCAL AGENTS WHICH WAS ONE OF THE SUBJECTS STATED TO BE UNDER REVIEW (SEE JIDDA 1467).

3. MAIN POINTS OF THE NEW DECREE FOLLOW:

A) BASIC RULES:

ALL QUALIFIED INDIVIDUALS AND ESTABLISHMENTS WILL BE GIVEN EQUAL TREATMENT, OPPORTUNITY AND INFORMATION; FIRMS OWNED 50 PERCENT OR MORE BY SAUDIS RECEIVE "PRIORITY" IN DEALINGS WITH THE GOVERNMENT AND SAUDI-MADE PRODUCTS RECEIVE PREFERENCE EVEN IF OF LOWER QUALITY THAN IMPORTED PRODUCTS, PURCHASES OR IMPLEMENTATION OF WORKERS SHALL BE

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CARRIED OUT AT FAIR PRICES THAT DO NOT EXCEED PREVAILING RATES THE LATTER WILL BE DERIVED THROUGH "COMPETITION AMONG THOSE WORKING IN THE FIELD").

B) BID SUBMISSION RULES:

TENDERING AGENCIES WILL SOLICIT BIDS EITHER THROUGH ANNOUNCEMENT IN THE OFFICIAL GAZETTE OR OTHER NEWSPAPER OR BY INVITATION. BIDS MUST BE ACCOMPANIED BY A

PRELIMINARY DEPOSIT OF BETWEEN ONE AND TWO PERCENT OF THEIR VALUE.

C) METHODS OF PROCUREMENTS:

THE REGULATIONS SPECIFY THAT COMPETING BIDS MUST BE SOLICITED FROM AT LEAST THREE SUPPLIERS FOR MOST PRODUCTS OR SERVICES. FOR CONSTRUCTION WORKS, FIVE BIDS ARE REQUIRED. DIRECT NEGOTIATION WITH SUPPLIERS IS PERMITTED IN THE CASE OF ARMS, SPARE PARTS, CONSULTANCY PROJECTS WORTH LESS THAN ONE MILLION RIYALS, OR OTHER GOODS NOT SPECIFIED IN THE DECREE IF THE TOTAL VALUE IS UNDER ONE MILLION RIYALS.

" THE SOLICITING AGENCY SHALL GIVE OPPORTUNITY TO THE LARGEST NUMBER OF THOSE QUALIFIED PARTIES OPERATING IN THE FIELD FOR WHICH THE PROCUREMENT IS REQUIRED SO THAT ITS DEALING IS NOT CONFINED TO CERTAIN INDIVIDUALS OR ESTABLISHMENTS."

D) CONTRACT AWARD RULES:

EACH GOVERNMENT AGENCY IS REQUIRED TO SET UP AN AWARDS COMMITTEE OF THREE OR MORE PERSONS TO EXAMINE BIDS, WITH DECISIONS MADE BY MAJORITY VOTE. THE COMMITTEE MAY NEGOTIATE WITH THE LOW BIDDER IN EITHER OF TWO INSTANCES:

A) IF ALL BIDS ARE MARKEDLY HIGHER THAN MARKET PRICES THE COMMITTEE MAY ASK THE LOWEST BIDDER TO DECREASE HIS BID? IF HE REFUSES, THE COMMITTEE CAN NEGOTIATE SIMILARLY WITH OTHER BIDDERS. B) IF BIDDERS HAVE ENTERED SPECIAL CONDITIONS INTO THEIR BIDS.

E) BID AWARD AND CONTRACTING AUTHORITY:

A MINISTER OR DEPARTMENT HEAD HAS AUTHORITY TO MAKE AWARDS VALUED AT THREE MILLION RIYALS OR MORE FOR UNCLASSIFIED

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LESSER AMOUNTS, THE DEPUTY MINISTER HAS THIS AUTHORITY.

F) CONTRACT CONDITIONS:

A FINAL DEPOSIT OR PERFORMANCE DECREE IS REQUIRED FROM CONTRACTORS AMOUNTING TO FIVE PERCENT OF CONTRACT VALUE OR 25 PERCENT OF CONTRACT VALUE IF THE GUARANTEE IS IN THE FORM OF SURETY BOND THE GUARANTEE OR BOND MAY BE REDUCED IN STAGES CORRESPONDING TO THE DEGREE OF PROJECT COMPLETION.

F) OTHER SECTIONS:

RULES FOR ADVANCE PAYMENTS, ADVANCE PAYMENT GUARANTEE AND DELAY FINES REMAIN UNCHANGED FROM PREVIOUS REGULATIONS THE DECREE STATES THAT NEW "FORMS" WILL BE ISSUED FOR PUBLIC WORKS, SUPPLY AND OTHER TYPES OF ADMINISTRATIVE CONTRACTS.

4. COMMENT: THIS NEW DECREE CONTAINS FEW SURPRISES AND NO NEW ONEROUS CONDITIONS AFFECTING FOREIGN BIDDERS ON SAG TENDERS. THE REDEFINITION OF "SAUDI" FIRMS TO MEAN 50 PERCENT SAUDI CAPITAL, INSTEAD OF 60 PERCENT AS IN THE PREVIOUS

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GENERAL TENDER REGULATIONS, MAY BE A SLIGHT IMPREMENT  
FROM THE POINT OF VIEW OF FOREIGN JOINT VENTURE  
PARTNERS. AMERICAN AND OTHER FOREIGN BIDDERS SHOULD  
WELCOME WHAT CONSTITUTES AN EFFORT TO MAKE BIDDING  
PROCEDURES MORE OPEN, COMPETITIVE AND THUS MORE "FAIR".  
BIDDERS WILL BE PRINCIPALLY INTERESTED IN HOW THE SAG  
APPLIES ITS RULES FOR DERVING FAIR BID PRICES THROUGH  
"COMPETITION AMONG THOSE WORKING IN THE FIELD" (PARA  
3 A, ABOVE).

5. TEXT OF DECREE BEING POUCHED.  
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## Message Attributes

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Margaret P. Grafeld  
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